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10/657,320	09/08/2003	Nicholas James Nissing	8652C	1187

27752 7590 08/31/2005

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EXAMINER

NORDMEYER, PATRICIA L

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/31/2005

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/657,320  
Filing Date: September 08, 2003  
Appellant(s): NISSING, NICHOLAS JAMES

**MAILED**

**AUG 31 2005**

**GROUP 1700**

Stephen T. Murphy  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed June 22, 2005 appealing from the Office Action  
mailed December 23, 2004.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

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The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

U.S. Patent No. 5,853,197 to Mowry, Jr., patented on December 29, 1998.

U.S. Patent No. 5,904,375 to Brugada, patented on May 18, 1999.

U.S. Patent No. 5,871,615 to Harris, patented on February 16, 1999.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 – 3; 5, 6, 8, 10, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Mowry, Jr. (USPN 5,853,197).

Claims 1 – 3, 5 and 10 – 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Brugada (USPN 5,904,375).

Claims 4, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mowry, Jr. in view of Harris (USPN 5,871,615).

**(10) Response to Argument**

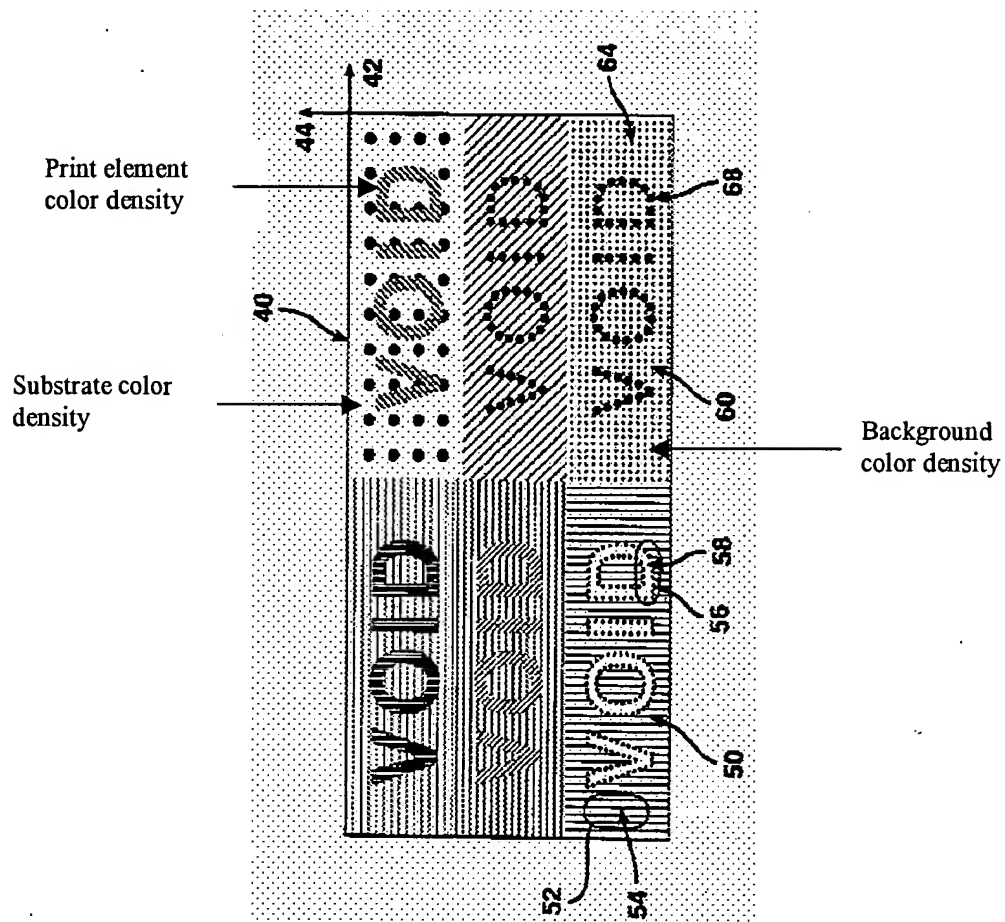
Rejections Under 35 U.S.C. 102(b) over Mowry, Jr.

A. Claims 1 – 3, 10 and 12

Appellants argue that nowhere in Mowry is the use of a microscopic color density variation taught nor is it taught that a third density of ink, a background color density, which is between the density of the substrate and that of the print element, should be applied around the print elements.

In response to Appellants' argument that nowhere in Mowry is the use of a microscopic color density variation taught nor is it taught that a third density of ink, a background color density, which is between the density of the substrate and that of the print element, should be applied around the print elements, Mowry does disclose the use of a microscopic color density variation as shown by the fact that the print elements on the substrate have a frequency between 65 and 130 lines per inch (Column 6, lines 65 – 67), which would not be resolved by the naked human eye at a distance of about 0.8 meters or greater. As shown in the picture below, Mowry also discloses substrate color density, a background color density and a print element color density. Mowry discloses a background color density, a density caused by the rough edges of the printed dot, (Column 5, lines 49 – 54).

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B. Claims 5, 6 and 15

Appellants argue that nowhere in Mowry is the use of solid regions having different color densities such that the color density ration between the two solid print regions is at least 1.15.

In response to Appellants' argument that nowhere in Mowry is the use of solid regions having different color densities such that the color density ration between the two solid print regions is at least 1.15, Mowry discloses that ink is provide in a variety of ways to the surface of

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the substrate (Figures 1 and 2) and in a variety of densities (Column 6, lines 23 – 25) which would allow for two solid print regions having a ratio of at least 1.15 based on how close the print element are (Figure 2, #60) since Mowry uses ink for the different elements (Column 5, lines 5 – 7), which is defined by the Appellants' application on page 8, lines 28 – 30 to be "any composition or components thereof applied to the substrate and which remains thereon in a visible pattern even though components of the ink may evaporate.

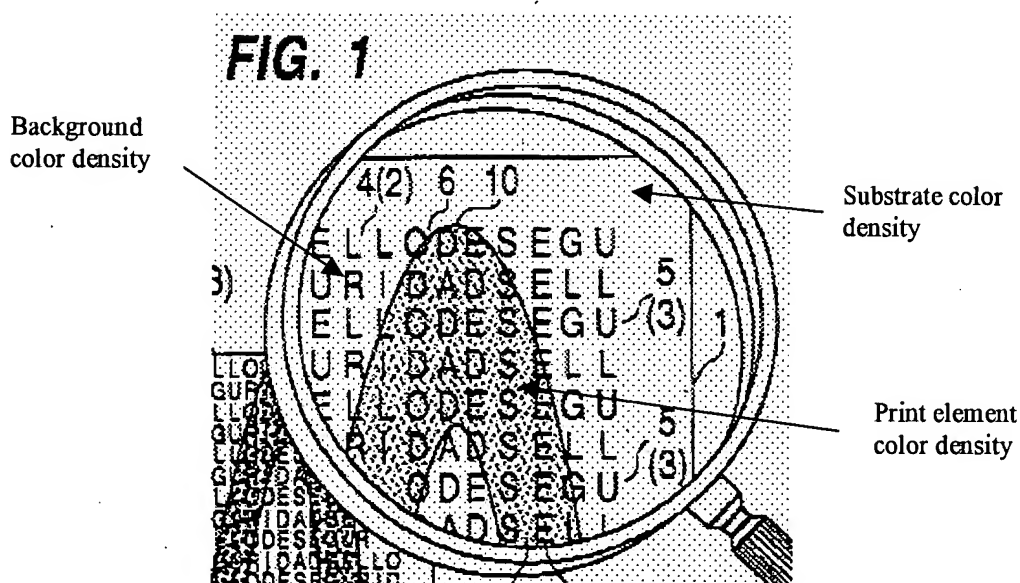
C. Claims 8 and 14

Appellants argue that nowhere in Mowry is the use of different print regions with the same color and color density where the different print regions have differing rub-off characteristics such that the rub-off ratio is greater than 1.1.

In response to Appellants' argument that nowhere in Mowry is the use of different print regions with the same color and color density where the different print regions have differing rub-off characteristics such that the rub-off ratio is greater than 1.1, Mowry discloses that ink is provide in a variety of ways to the surface of the substrate (Figures 1 and 2) and in a variety of densities (Column 6, lines 23 – 25) which would allow different print regions to have rub off ratio greater than 1.1since Mowry uses ink for the different elements (Column 5, lines 5 – 7), which is defined by the Appellants' specification on page 8, lines 28 – 30 to be "any composition or components thereof applied to the substrate and which remains thereon in a visible pattern even though components of the ink may evaporate".

Appellants argue that there is no teaching in Brugada of the use of a microscopic color density variation resulting in a background color density in the indicia of the substrate.

In response to Appellants' argument that there is no teaching in Brugada of the use of a microscopic color density variation resulting in a background color density in the indicia of the substrate, Brugada teaches the first surface includes imprinted backgrounds of micropattern of text or drawings with inks that include pigments (Column 2, lines 27 – 32). The micropattern is composed of print elements such as dots and lines (Column 2, lines 35 – 40). As shown in the picture below, Brugada also discloses substrate color density, a background color density and a print element color density.





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B. Claims 8, 13 and 14

Appellants argue that nowhere in Brugada is the use of different print regions with the same color and color density where the different print regions have differing rub-off characteristics such that the rub-off ratio is greater than 1.1.

In response to Appellants' argument that nowhere in Brugada is the use of different print regions with the same color and color density where the different print regions have differing rub-off characteristics such that the rub-off ratio is greater than 1.1, as shown by Figure 1, the ink is comprised of two print regions that may have the same color and color density. Depending on the type of the ink used, hydrophilous versus non-absorbent (Column 4, lines 29 – 38), the ink may have a rub off ratio greater than 1.1, wherein ink is defined by the Appellants' specification on page 8, lines 28 – 30 to be "any composition or components thereof applied to the substrate and which remains thereon in a visible pattern even though components of the ink may evaporate".

Rejections Under 35 U.S.C. 103(a) over Mowry, Jr. in view of HarrisA. Claim 4

Appellants argue that Harris does not resolve the deficiencies of Mowry since nowhere in the combined teaching of Mowry and Harris is there teaching or suggestion to print an indicia on a substrate such that the indicia has microscopic variation and a resulting background color density.

In response to Appellants' argument that nowhere in Mowry is the use of a microscopic color density variation taught nor a resulting background color density, Mowry does disclose the use of a microscopic color density variation as shown by the fact that the print elements on the substrate have a frequency between 65 and 130 lines per inch (Column 6, lines 65 – 67), which would not be resolved by the naked human eye at a distance of about 0.8 meters or greater. As shown in the above under the '35 U.S.C. 102 rejection section, Mowry also discloses substrate color density, a background color density and a print element color density. Mowry discloses a background color density, a density caused by the rough edges of the printed dot, (Column 5, lines 49 – 54).

#### B. Claim 7

Appellant argue that Harris does not resolve the deficiencies of Mowry since nowhere in the combined teaching of Mowry and Harris is there teaching or suggestion to have two solid print areas having a color density ratio of at least 1.15.

In response to Appellants' argument that nowhere in Mowry is the use of solid regions having different color densities such that the color density ration between the two solid print regions is at least 1.15, Mowry discloses that ink is provide in a variety of ways to the surface of the substrate (Figures 1 and 2) and in a variety of densities (Column 6, lines 23 – 25) which would allow for two solid print regions having a ratio of at least 1.15 based on how close the print element are (Figure 2, #60) since Mowry uses ink for the different elements (Column 5, lines 5 – 7), which is defined by the Appellants' specification on page 8, lines 28 – 30 to be “any

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composition or components thereof applied to the substrate and which remains thereon in a visible pattern even though components of the ink may evaporate”.

### C. Claim 9

Appellant argue that Harris does not resolve the deficiencies of Mowry since nowhere in the combined teaching of Mowry and Harris is there teaching or suggestion to have two regions having the same color, the same color density where the two print regions have rub-off ratios greater than 1.1.

In response to Appellants’ argument that nowhere in Mowry is the use of different print regions with the same color and color density where the different print regions have differing rub-off characteristics such that the rub-off ratio is greater than 1.1, Mowry discloses that ink is provide in a variety of ways to the surface of the substrate (Figures 1 and 2) and in a variety of densities (Column 6, lines 23 – 25) which would allow different print regions to have rub off ratio greater than 1.1 since Mowry uses ink for the different elements (Column 5, lines 5 – 7), which is defined by the Appellants’ specification on page 8, lines 28 – 30 to be “any composition or components thereof applied to the substrate and which remains thereon in a visible pattern even though components of the ink may evaporate”.

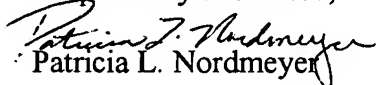
### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

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For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

  
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Conferees:

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1772

8/29/05

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